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3 **UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF CALIFORNIA**

5 ESAU REDIX,) Case No.: 1:20-cv-01647-NONE-SAB (PC)
6 Plaintiff,)
7 v.) ORDER SETTING REMOTE SETTLEMENT
8 J. NAVARRO, et al.,) CONFERENCE AND STAYING CASE FOR
9 Defendants.) 80 DAYS
10) Date: **September 28, 2021**
11) Time: **9:30 a.m.**
12)

13 Plaintiff Esau Redix is proceeding *pro se* and *in forma pauperis* in this civil rights action
14 pursuant to 42 U.S.C. § 1983.

15 The Court finds this case suitable for referral to post-screening ADR (Alternative Dispute
16 Resolution), which is an effort to resolve such cases more expeditiously and less expensively. No
17 claims, defenses or objections shall be waived by the parties' participation. In appropriate cases,
18 defense counsel from the California State Attorney General's Office has agreed to participate in these
19 early settlements.

20 As set forth in the screening order, Plaintiff has stated a cognizable civil rights claim. But,
21 stating a cognizable claim does not mean Plaintiff will prevail at trial. Thus, the Court stays this
22 action for a period of 80 days to allow the parties to investigate Plaintiff's claims, meet and confer,
23 and then participate in a settlement conference.

24 Therefore, this case will be referred to Magistrate Judge Barbara A. McAuliffe to conduct a
25 settlement conference on **September 28, 2021 at 9:30 a.m.** In light of the coronavirus (COVID-19)
26 outbreak and evolving coronavirus protocols, the Court finds that the parties shall appear **remotely** via
27 the Zoom videoconferencing application.
28

1 Counsel for Defendants shall contact Courtroom Deputy, Esther Valdez, at (559) 499-5788 or
2 evaldez@caed.uscourts.gov for the video and dial-in information, including any necessary passcodes,
3 for all parties. Counsel for Defendants is also required to arrange for Plaintiff's participation by
4 contacting the Litigation Coordinator at the institution where Plaintiff is housed and providing the
5 necessary Zoom contact information.

6 In issuing this order, there is a presumption that this case will proceed to a settlement
7 conference.¹ However, if after investigating Plaintiff's claims and speaking with Plaintiff, and after
8 conferring with others, defense counsel in good faith finds that a settlement conference would be a
9 waste of resources, defense counsel may move to opt out of this early settlement conference. A
10 written notice to opt out must be filed within 30 days of the date of the issuance of this order.

11 The parties shall each submit to Judge McAuliffe a confidential settlement conference
12 statement, as described below, to arrive at least seven days prior (one week) to the conference.

13 The Court puts the parties on notice that if Plaintiff has any outstanding criminal restitution
14 obligation, fines and/or penalties, these settlement negotiations shall not be geared towards what the
15 restitution obligation is, but what the value the of the case itself is to each side, irrespective of any
16 outstanding restitution obligation.

17 In accordance with the above, IT IS HEREBY ORDERED that:

- 18 1. This action is STAYED for 80 days to allow the parties an opportunity to settle their
19 dispute before the discovery process begins. Except as provided herein or by
20 subsequent court order, no other pleadings or other documents may be filed in this case
21 during the stay of this action. The parties shall not engage in formal discovery, but may
22 engage in informal discovery to prepare for the settlement conference.
- 23 2. This case is set for a remote settlement conference before Magistrate Judge Barbara A.
24 McAuliffe on **September 28, 2021, at 9:30 a.m.**
- 25 3. A representative with full and unlimited authority to negotiate and enter into a binding
26 settlement shall attend in person.

27
28 ¹ If the case does not settle, the Court will then issue the Discovery and Scheduling Order.

- 1 4. Those in attendance must be prepared to discuss the claims, defenses and damages.
2 The failure of any counsel, party or authorized person subject to this order to appear in
3 person may result in the cancellation of the conference and the imposition of sanctions.
4 The manner and timing of Plaintiff's transportation to and from the conference is
5 within the discretion of CDCR.
- 6 5. Defendants shall provide a confidential settlement statement to the following email
7 address: bamorders@caed.uscourts.gov. Plaintiff shall mail his confidential
8 settlement statement to U.S. District Court, 2500 Tulare Street, Fresno, California,
9 93721, "**Attention: Magistrate Judge Barbara A. McAuliffe.**" The envelope shall
10 be marked "Confidential Settlement Statement". Settlement statements shall arrive no
11 later than **September 21, 2021**. Parties shall also file a Notice of Submission of
12 Confidential Settlement Statement (See Local Rule 270(d)). Settlement statements
13 **should not be filed** with the Clerk of the Court **nor served on any other party**.
14 Settlement statements shall be clearly marked "confidential" with the date and time of
15 the settlement conference indicated prominently thereon.
- 16 6. The confidential settlement statement shall be **no longer than five pages** in length,
17 typed or neatly printed, and include the following:
- 18 a. A brief statement of the facts of the case.
- 19 b. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
20 which the claims are founded; a forthright evaluation of the parties' likelihood of
21 prevailing on the claims and defenses; and a description of the major issues in
22 dispute.
- 23 c. An estimate of the cost and time to be expended for further discovery, pretrial, and
24 trial.
- 25 d. The party's position on settlement, including present demands and offers and a
26 history of past settlement discussions, offers, and demands.
- 27 e. A brief statement of each party's expectations and goals for the settlement
28 conference, including how much a party is willing to accept and/or willing to pay.

1 f. If the parties intend to discuss the joint settlement of any other actions or claims not
2 in this suit, give a brief description of each action or claim as set forth above,
3 including case number(s), if applicable.

4 7. If a settlement is reached at any point during the stay of this action, the parties shall file
5 a Notice of Settlement in accordance with Local Rule 160.

6 8. If the defense counsel wishes to “opt- out” of this settlement for the reasons stated
7 above, counsel must do so within **thirty (30) days** of this order by filing a “Notice of
8 Opt-Out and Request to Vacate Settlement Conference.”

9 9. If defense counsel does not wish to opt-out, defense counsel shall contact the
10 Litigation Coordinator at the institution where Plaintiff is housed to determine whether
11 the institution can accommodate a Zoom video appearance by Plaintiff at this date and
12 time. Within thirty (30) days of this order, defense counsel shall file a notice advising
13 the Court whether the institution can accommodate Plaintiff’s appearance.

14 10. The parties remain obligated to keep the court informed of their current address at all
15 times during the stay and while the action is pending. Any change of address must be
16 reported promptly to the court in a separate document captioned for this case and
17 entitled “Notice of Change of Address.” See Local Rule 182(f).

18 11. A failure to follow these procedures may result in the imposition of sanctions by the
19 court.

20
21 IT IS SO ORDERED.

22 Dated: July 12, 2021



UNITED STATES MAGISTRATE JUDGE